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TORTS—RAILROADS—LIABILITY OF LICENSOR OF USE OF TRACK TO ITS EMPLOYEE FOR LICENSEE'S NEGLIGENCE.—The A and B railway companies exercised a joint use of certain tracts owned by the A company. An employee of the A company, in making up a train for the A company, was killed by the negligence of employees of the B company in shoving a car against the cars composing the train, without warning and with great force. An action was brought against the A company. *Held*, the A company is not liable for the acts of negligence of the B company, without a showing that its duty as employer has been violated. *Hunsaker's Adm'x v. Chesapeake, etc., R. Co.* (Ky.), 215 S. W. 552.

As to the nature and extent of the liability of a lessor or licensor of a railroad to employees of the lessee or licensee and members of the public for acts of negligence and nonfeasance on the part of the lessee or licensee of the railroad, the courts are not altogether in accord. See *Nugent v. Boston, etc., R. Co.*, 80 Me. 62, 12 Atl. 797, 6 Am. St. Rep. 151; *Lee v. Southern Pacific R. Co.*, 116 Cal. 97, 47 Pac. 932, 38 L. R. A. 71, 58 Am. St. Rep. 140, and note; *Chicago, etc., R. Co. v. Hart*, 209 Ill. 414, 70 N. E. 654, 66 L. R. A. 75; *Virginia Midland R. Co. v. Washington*, 86 Va. 629, 10 S. E. 927, 7 L. R. A. 344; *Harden v. North Carolina R. Co.*, 129 N. C. 354, 40 S. E. 184, 55 L. R. A. 784, 85 Am. St. Rep. 747.

But where the injured person is a servant of the lessor or licensor the situation is different. The relation between the lessor or licensor and his own servant is purely that of employer and employee. Hence, the lessor or licensor is liable only as employer. An engineer in the employ of the owner of a railroad was injured in a collision with a train of another company using a part of the same road under a lease from the owner. The engineer was not allowed to recover damages from the owner of the road because the collision had occurred entirely through the negligence of the lessee, and this negligence the owner could not have foreseen. *Clark v. Chicago, etc., R. Co.*, 92 Ill. 43. See also *Georgia Railroad & Banking Co. v. Friddell*, 79 Ga. 489, 7 S. E. 214.

A legislative enactment providing that if a lease or sale be made of the franchise or property of a corporation the lessee or grantee shall take such franchise or property subject to any of the liabilities of the lessor or grantor at the time existing and enforceable against the franchise or property, does not give a personal action where none existed before. *Lee v. Southern Pacific R. Co.*, *supra*.

The decision in the instant case seems sound upon reason and authority.

TORTS—NEGLIGENCE—MANUFACTURER'S LIABILITY WHERE THERE IS NO PRIVITY OF CONTRACT.—The defendant, a manufacturer of air rifles, who advertised them as harmless instruments of amusement, neglected to examine his product properly, and one of the air rifles came into the hands of a retailer loaded. The plaintiff, a saleswoman in the retailer's store, was injured by the discharge of the air rifle in the hands of a prospective purchaser, both being ignorant that the weapon was loaded. The plaintiff brought an action to recover for this negligence